



## American Electric Power (AEP) Consent Decree

### Introduction

On October 9, 2007, the United States, eight states, and thirteen citizen groups announced a settlement agreement with American Electric Power (AEP) under the Clean Air Act's (Act) New Source Review (NSR) provisions that obtains relief at sixteen (16) of AEP's coal-fired power plants (46 units) located in Indiana, Kentucky, Ohio, Virginia, and West Virginia. AEP ranks among the nation's largest generators of electricity.

By several measures this is the single largest environmental enforcement settlement. It is the largest environmental settlement as measured in terms of injunctive relief. It is estimated that AEP will spend more than \$4.6 billion to comply with the consent decree. The settlement also is the largest as measured in terms of pollution reductions obtained from the owner or operator of a Clean Air Act stationary source(s). Upon full implementation, the settlement will secure at least 813,000 tons per year of air pollution reductions from AEP's 16 power plants.

The settlement requires the installation and continuous operation of pollution control technology such as selective catalytic reduction devices (SCRs) for the control of Nox and flue gas desulfurization equipment (FGD), also known as scrubbers, for the control of SO<sub>2</sub> emissions.

In addition to the significant reductions of SO<sub>2</sub> and Nox, AEP will pay a \$15 million penalty, the highest penalty paid by any electric utility in settlement of a New Source Review case. Under the settlement, AEP also committed \$60 million to perform or finance environmental mitigation projects.



### Management Needs

In 2006, nitrogen oxide (NO<sub>x</sub>) emissions at these 16 plants totaled 231,000 tons per year. By 2016, these AEP emissions will be reduced to 72,000 tons per year, continuing in perpetuity. In 2006, sulfur dioxide (SO<sub>2</sub>) emissions at these 16 plants totaled 828,000 tons per year. By 2018, these AEP emissions will be reduced to 174,000 tons per year, continuing in perpetuity. This

SO<sub>2</sub> reduction -- from a single settlement -- is more than the SO<sub>2</sub> emitted from most states (45 out of 50). This reduction in emissions is one of the largest percentage decreases achieved in any of the United States' prior settlements with coal-fired electric utilities, and it reflects a multibillion dollar investment by AEP.

These reductions should have direct benefit to Shenandoah National Park through subsequent reductions in acid deposition in the park. SO<sub>2</sub> and other sulphur species are the largest contributors to acid deposition in Shenandoah.

### Current Procedures

American Electric Power is required to spend \$60 million to perform and finance environmental mitigation projects to address the impacts of past emissions; the total amount has been split 60%/40% between the United States and the various settling states. The \$36 million federal share of mitigation projects has been or will be spent on projects to acquire and restore ecologically sensitive land in eastern states downwind of AEP's plants; restore or improve watersheds and forests in national parks adversely affected by past emissions; reduce nitrogen loading to Chesapeake Bay through actions such as the acquisition of buffer zones; and additional projects to reduce emissions from mobile sources, such as diesel barge tugs and conventionally powered trucks in AEP's fleet. The remaining \$24 million for environmental projects has been allocated among the states that joined the settlement.

American Electric Power has donated \$2 million to the National Park Service: "for the restoration of land, watersheds, vegetation, and forests using adaptive management techniques designed to improve ecosystem health and mitigate harmful effects from air pollution. This may include reforestation or restoration of native species and acquisition of equivalent resources and support for collaborative initiatives with state and local agencies and other stakeholders to develop plans to assure resource protection over the long-term. Projects will focus on one or more of the following Class I areas alleged in the underlying action to have been injured by emissions from Defendants facilities: Shenandoah National Park, Mammoth Cave National Park, and Great Smoky Mountains National Park." *US v AEP Consent Decree* (U.S. District Court for Ohio, C2-99-12250). Class I areas managed by the U.S. Forest Service were also harmed by emissions from AEP facilities, but there was no mechanism available to transfer funds from AEP to USFS. To the extent feasible, the NPS agreed to conduct projects that would also benefit USFS Class I areas.

A portion of the \$2 million is being expended at Shenandoah National Park on critical air quality and mitigation studies.

### More Information

A separate Fact Sheet (AEP Mitigation Studies) has been developed that explains the two mitigation studies that have been undertaken at Shenandoah. If funds remain after these two



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projects are completed, Shenandoah may have the opportunity to propose additional work.